THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.22622 OF 2005

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Dated:26.10.2005

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Between

M/s. Meenakshi Paper Mills Private Limited, having its registered office at 659, Satamrai, Gaganpahad, Hyderabad 501 323, represented by its Director Sri Susheel Kumar, S/o. Mohan Lal Agarwal.

...PETITIONER

AND

Director of Boilers, Durgabai Deshmukh Colony, Sivam Road, Hyderabad and others.

...RESPONDENTS

ORDER:

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This writ petition is filed seeking a Writ of Mandamus to direct the respondents 1 and 2 to receive the application for registration of boilers from the petitioner without insisting for IBR-Folder (Certificate) issued under the Indian Boilers Act, 1923 (for short 'the Act') and not to interfere with the use and operation of the boilers by the petitioner for carrying out their manufacturing activities.

It is stated that the petitioner is a private limited company and registered under the Companies Act, having its registered office at Survey No.659, Satamrai, Gaganpahad, Hyderabad. Petitioner-company is engaged in the business of manufacturing and marketing of "Craft Paper" and is also registered as Small Scale Industry with the Department of

Industries, Government of Andhra Pradesh. For the purpose of its manufacturing activities, the petitioner-company requires boilers and accordingly they have placed order for supply of IFB-40 Three Pass Smoke Tube – Twin Internal Furnace Boilers with the respondent No.3 at their manufacturing unit at Pune. Accordingly, the third respondent being the agent of the manufacturing unit at Pune sold the boilers to the petitioner-company having obtained necessary certificate from the Chief Inspector of Factories, Pune, which is in the form of IBR-Folder and after due verification and inspection of the performance of the boilers, the IBR-Folder (Certificate) was issued by the authorities of Maharashtra under the Act. The third respondent office at Pune instead of sending the said certificate along with the boilers simply dispatched the boilers to the petitioner's place through road transport. Therefore, the petitioner filed a Civil Suit in O.S.No.745 of 2005 on the file of the I Senior Civil Judge, Ranga Reddy District for recovery of damages and the said suit is pending.

Be that as it may, it is the case of the petitioner-company that the boilers were installed at the petitioner's factory for the purpose of carrying out the manufacturing activities by it and the same was also informed to the respondents in the month of March 2005.

The petitioner being the owner of the boilers and having installed the boilers is entitled to get it registered with the respondents 1 and 2 under Section 6(b) of the Act and also entitled to apply for transfer of certificate with the respondents 1 and 2. It is stated that under Rule 25 of the Andhra Pradesh Boiler Rules, 1967, whenever a boiler is transferred from another State to Andhra Pradesh, the owner shall under clause (b) of Section 6 of the Act apply to the Chief Inspector for the registration of the transfer. The Chief Inspector shall then obtain the registration book and memorandum of inspection book of the boiler from the State from which the boiler was transferred.

But the second respondent, who is the concerned Chief Inspector, is not at all receiving the application of the petitioner for the registration of the transfer. Hence, this writ petition.

Whenever a boiler is transferred to the State of Andhra Pradesh from other States it is the duty of the State authorities to inspect and conduct an enquiry with regard to the running condition of the boiler and then register it or it is also open to them to take appropriate action. But the respondents have no right to refuse to receive the application of the petitioner-company.

Learned counsel for the respondents submits that, no doubt, the petitioner is entitled to get the boiler registered under the provisions of the Act and the Rules thereunder but the petitioner-company never informed the respondents 1 and 2 about the transfer of the boiler and about the IBR-Folder Certificate. Under Section 6(a) of the Act, no owner of the boiler shall make use of the boiler unless it has been registered in accordance with the provisions of the Act.

If a boiler is purchased within the State of Andhra Pradesh it has be to registered under Section 6(a) of the Act and if the boiler is purchased outside the State of Andhra Pradesh no owner shall use the boiler unless the transfer has been reported in the prescribed manner and a certificate or provisional order authorizing the use of the boiler is for the time being in force under the Act. Here is the case where the boilers were purchased and transferred from the State of Maharashtra to the State of Andhra Pradesh. The only objection of the respondents is that the petitioner-company has not at all reported the transfer of the boilers from the State of Maharashtra to the State of Andhra Pradesh. But it is the case of the petitioner-company that the prescribed form was refused to be given by the respondents by receiving the relevant fee and therefore, it could not report the same.

Having regard to the facts and circumstances of the case, the second respondent is directed to receive the report with regard to the transfer of the boilers, purchased by the petitioner-company, from the State of Maharashtra to the State of Andhra Pradesh and also to receive the application of the petitioner-company for the registration of the boilers under Section 6(b) of the Act; on receipt of such application the same may be enquired into and pass appropriate orders within four weeks from the date of receipt of the application if the said boilers are in accordance with the specifications for the use of the same.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

October 26, 2005

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